JURY WAS ON TRIAL, SAYS LEO M. FRANK

Condemned Man Asserts That His Sympathy Is With the Twelve Men Who Composed

the Jury.

Leo M. Frank, following his second reverse at the hands of a justice of the Supreme Court of the United States, has issued a card to the public in which he calls attention to several phases of his trial, conviction and subsequent appeals to the Supreme Court of the State.

He stresses the fact that the Supreme Court has never reviewed the question of his guilt or innocence; that the evidence on which he was convicted, was considered solely by the jury which convicted him.

Of the jury he declares they were on trial for their lives as much as he—that their very lives hung in the balance, so dangerous was the crowd which surrounded the jail.

The card follows:

To the Public: Again have met with another reverse. I am not a lawyer; I am not conversant with these matters, and so I cannot comment on this latest legal phase of my Case. What appears to me the big issue, the issue rising far above matters of practice and legal wrangling, is that with which I am conversant, namely, that I am innocent of this dreadful charge and that standing today convicted, I have been prosecuted wrongfully, and grotesquely, for a crime of which I have no knowledge.

I have been tried but once, in August, 1913, before twelve jurors, at which time a verdict was reached. Since that time, I have been before both Superior Supreme Courts, where the legality of the proceedings was reviewed. The evidence at trial, the question of my guilt or innocence, has never been reviewed, except before Judge Roan, who expressed at least a reasonable doubt as to my guilt. With this exception, my counsel but questioned the legal processes and asked the various judges to remedy the defects and legal errors in my trial and to consider the legal status of the trial conditions and the verdict.

In all of these various motions, guilt or innocence was not in the issues. We only desired the judges to correct the legal errors set out by my counsel. The higher judges have never, in delivering an opinion, stated in the opinion their conclusion as to

my innocence or guilt. That has been, and legally could be, expressed but once—by the jury.

Feels for the Jury.

And that trial in August, 1913! I mean no disrespect, but when I pause to think of the conditions surrounding that trial, I am horrified! If that was a trial; if those conditions, which obtained, constitute a legal, judicial trial; if the issue of life and death could be reasonably presumed to be faithfully considered in such an atmosphere—then God help all of us! I feel for the twelve gentlemen of the jury. Just consider their predicament. They were on trial, too! Their very lives hung in the balance! There were thirteen men on trial for life at my trial—the jurors and myself.

Those twelve men lived through twenty-nine days of a trial; they heard hundreds of witnesses; they listened to the impassioned and vehement arguments of counsel; they paid attention to His Honor's charge. But it is significant that they heard the unruly and unseemly demonstrations both within and without the Courtroom; they heard the applause when the prosecution scored a point; the disapproval when the defense won a point; they knew that the Court was adjourned from Saturday until Monday to prevent a possible impending outbreak; they saw the chief of the Atlanta Police and the Colonel of the Militia in Conference with His Honor, the Judge. They knew what this Conference meant; they knew what the demonstrations portended. Their verdict protected them from harm.

Nor can there be any doubt that His Honor anticipated acquittal. He realized the feeling of the throng in and about the Courthouse, and to protect an innocent man from harm requested my attorney, as it afterwards appeared, to waive my presence when the verdict was rendered. This is further borne out by his public expression of his doubt of my guilt when he overruled our motion for a new trial. Who can say that in a friendlier atmosphere His Honor's expression would have not been stronger and his action on the motion different?

Conditions Recognized.

That such conditions as obtained at my trial are recognized by the Georgia Supreme Court as vitiating a verdict and

destroying the value of a trial so held can be seen by the following quotation from the Eighty-First Georgia, pages 559-560:

"But can any man say with certainty that such things have no influence upon him? Can any of us know how far our minds are influenced by applause or excitement in a crowd which surrounds us? Can any of us say, even in this Court, that this or that piece of testimony, or this or that argument of counsel, has not influenced our minds? … Our minds are so constituted that it is impossible to say what impression scenes of this kind would make upon us, unless we had determined beforehand that the prisoner was guilty or innocent. The question here is not what effect these things did have upon the minds of the jury, but what effect they were calculated to produce. We cannot determine what effect they did have, but it is apparent what effect they were calculated to have."

Our jurors may say that they were uninfluenced by the unruly conditions surrounding my trial. They may say it honestly and truthfully. But subconsciously the atmosphere, pregnant with latent violence, must have guided them. It could not have been otherwise. They were but human.

As to the subject matter of the trial, I declare, without fear of contradiction, that it was not shown that the Negro Perjurer, Jim Conley, who has a long Police Court Record, and who has been arrested several times for "disorderly conduct," had neither the motive to conceive the crime or the opportunity to commit it. Conley lied and lied again, under oath, innumerable times. He admitted lying and Perjury at the trial on the stand. A recent publication, treating of my Case, states "the world has never discovered a direct means of determining when a liar under oath is not a liar under oath." I take it, that as far as Conley is concerned, this is the meat of the proposition.

Conley Was Drunk.

On that tragic April 26, 1913, I was occupied with my usual duties, attending to my business and doing my work. I had a right to be there, and I was surrounded by my immediate office force. Conley, filled with drink, and with a flask of whisky in his pocket, admits that he was hiding in a dark place, away from the visions of the passer-by, and in close proximity to the

stairway leading from the second floor. I was working busily and was accessible to all who wished to see me. Conley was lurking in a dark place and sleeping off the effects of a drunk. My Statements have stood the acid test of truth and the test of time. Conley, under oath, replaces one lie with another innumerable times. Who would you expect to commit a crime under those circumstances? In whose brain of these two, mine or Conley's, would you look for devilment to be begotten? Who of the two, would you rather encounter alone in a big building? That which is humanly possible happens only in a reasonably natural way!

Conley's Opportunity.

Do you believe that Conley could not have committed this crime? Do you believe that he did not have, even better opportunity than anyone else? If it is possible that the drink-filled, vicious Conley could have committed this crime, isn't it most probable and plausible that he did do it? He certainly had the opportunity, and judging him from his condition at the time and his past Police Record, a motive could be very readily assigned for his act. And he has lied time without number—and under oath at that. A creature like Conley, who has no respect for his oath of God, certainly has no respect for any living creature—not even himself.

I have no knowledge of this transaction. I have made my Statement and that still stands as the truth, for I am innocent. I have made my Statement and that still stands as the truth, for I am innocent. I cannot believe that this community can be hoodwinked by a wily Negro criminal. Before you can take the word of this colossal Negro Perjurer and liar, he must show that he is himself innocent. How can you take his word? Isn't it apparent that he is lying to this very day? His testimony on the stand, his vicious and shady character, his self-incriminating expressions, irretrievably damn him and prove my innocence!

LEO M. FRANK.

November 27, 1914.